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VIA ECF

May 23, 2011

Hon. Kiyo A. Matsumoto
United States District Judge
United States Courthouse
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Mary Lodge v. United Homes, LLC, et al.*, CV-05-0187 (KAM)(RLM)

Dear Judge Matsumoto:

We write to our express our concern about the presentation of the holder-in-due-course defense by the Bayview defendants. In its May 5, 2011 Memorandum and Order, the Court precluded the Bayview defendants from introducing evidence produced on or after January 13, 2011 and any testimony relating to such documents.

In light of this ruling, at the end of trial proceedings on May 23, 2011, plaintiff's counsel inquired of Mr. Fierst how he anticipates establishing the identity of the current owner of the Lodge Note and Mortgage. Mr. Fierst's response was that he expects to introduce the Third Amended Complaint of Mary Lodge, which alleges that U.S. Bank is the current holder of the Lodge Note and Mortgage, and the Answer of the Bayview defendants to the Third Amended Complaint, in which the Bayview defendants admit that U.S. Bank is the holder.

Plaintiff filed and served the Third Amended Complaint on March 17, 2011, after—and as a direct result of—the production of documents by the Bayview defendants after January 13, 2011. The Bayview defendants are necessarily aware of this, and it is our view that the Bayview defendants' stated intent to rely on the Third Amended Complaint and their own admission as to the truth of the allegation that U.S. Bank is the current holder is a back-door attempt to introduce evidence that the Court has explicitly precluded. The Bayview defendants did not provide proof of who currently owns the Lodge Note and Mortgage until late January 2011. As a result of this much-belated disclosure, plaintiff amended her complaint to include the proper party. Since the late-produced and precluded documents formed the basis for this amendment, any use of the

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Amended Complaint and Answer to establish the holder in due course defense violates the spirit, if not the letter, of the Court's Memorandum and Order, and should not be permitted. We therefore ask that Your Honor preclude the Bayview defendants from relying on the recent pleadings in support of their defense.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sara Manaugh', with a stylized, flowing script.

Sara Manaugh